vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.853 OF 2004
IN
SUMMARY SUIT NO.2766 OF 2004

Sitaram Bhikaji Naik & Ors. ... Plaintiffs

V/s.

Shashikant Parshuram Parab ... Defendant

Mr.M.B. Baadkar with D.G. Bagwe for Plaintiffs
None for Defendant

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **APRIL 17, 2006**

P.C.:

. This Summons for Judgment was heard on 5.10.2005 when this Court directed the Defendant to deposit an amount of Rs.1,70,000/- in this Court within four weeks from that date. The Defendant had preferred an appeal on 15.12.2005 which was dismissed by the appeal Court since the directions of the appeal Court had not been complied. A non-deposit certificate has been produced indicating that the defendant has not deposited the amount.

2. The Plaintiffs & Defendant entered into a contract under which the Defendant was permitted to pluck mangoes from the trees owned by the Plaintiffs. The Defendant agreed to pay the plaintiffs Rs.1,75,000/- per year for the years from 2002 onwards and a sum of Rs.1,80,000/- per year for the subsequent three years.

The sale proceeds of the mangoes were to be appropriated by the Defendant. The Defendant failed to make payment within the stipulated time. The Plaintiffs have therefore claimed Rs.1,70,000/- together with interest @ 6% p.a.

3. It appears that the only defense raised to the summons for judgment is that the cash has been paid to the plaintiff by the defendant. There is nothing on record to indicate that such cash had in fact been paid by him.

4. Therefore, in my view, since there is no valid defense at all, the suit must be decreed. Accordingly, the suit is decreed as prayed for.

5. Refund of Court fee as per Rules.

6. Certified copy expedited.